

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1)DEBRA A. SHAW,

Plaintiff,

v.

(1)CHARLES ROSS ANDERSON, a/k/a C. ROSS
ANDERSON; (2)SUSAN BREINHOLT
ANDERSON, a/k/a SUSAN B. ANDERSON;
(3)HARDEN W. BREINHOLT;
(4)THOMAS P. ANDERSON;
(5)BRIAN D. ANDERSON;
(6)CRAIG ROSS ANDERSON;
(7)LORALEE ANDERSON, a/k/a LORALEE
KIRTON, a/k/a LORALEE HANSEN;
(8)DAVID M. ANDERSON;
(9)MICHAEL C. REECE, a/k/a/ MICHAEL C. REESE;
(10)ELAYNE REECE, individually, and as PERSONAL
REPRESENTATIVE OF THE ESTATE OF MICHAEL
C. REECE a/k/a MICHAEL C. REESE;
(11)S. ROBERT BRADLEY; (12)VAN COTT, BAGLEY,
CORNWALL & MCCARTHY, P.C.;
(13)DURHAM JONES & PINEGAR, P.C.;
(14)J. WILLIAM BENNETT, d/b/a J. WILLIAM
BENNETT, P.C.;
(15)AAA ENGINEERING & DRAFTING, INC., a Utah
corporation; (16)AZIMUTH, INC., a Utah corporation;
(17)AMERICAN ADVENTURES ASSOCIATION;
(18)CAPITOL INDUSTRIES, INC., a Utah corporation;
(19)H B ASSOCIATES, a Utah partnership;
(20)CAPITOL AMERICAN CORPORATION;
(21)CAPITAL PROPERTIES ONE, L.L.C.,
a Utah company;
(22)CAPITAL PROPERTIES TWO, L.L.C.,
a Utah company;
(23)CAPITAL PROPERTIES THREE, L.L.C.,
a Utah company;
(24)CAPITAL PROPERTIES FOUR, L.L.C.,
a Utah company;
(25)CAPITAL PROPERTIES FIVE, L.L.C.,
a Utah partnership;
(26)CAPITAL PROPERTIES SIX, L.L.C.,

Case Number:

District Court

Case No. CJ-2005-06278

a Utah company;)
 (27)CAPITAL PROPERTIES SEVEN, L.L.C.,)
 a Utah company;)
 (28)CAPITAL PROPERTIES EIGHT, L.L.C.,)
 a Utah company;)
 (29)CAPITAL PROPERTIES NINE, L.L.C.,)
 a Utah company;)
 (30)UNKNOWN JOHN DOE TRUSTS BY)
 AND THROUGH UNKNOWN JOHN)
 DOES(S) and JANE DOE(S); and)
 (31)UNKNOWN OTHER PERSONS and)
 ENTITIES JANE DOE(S) and JOHN)
 DOE(S),)
)
 Defendants.)

NOTICE OF REMOVAL¹

1. Charles Ross Anderson, A/k/a C. Ross Anderson; Susan Breinholt Anderson, a/k/a Susan B. Anderson; Harden W. Breinholt; Thomas P. Anderson; Brian D. Anderson; Lorelee Anderson, a/k/a Lorelee Kirton, a/k/a Lorelee Hansen; David M. Anderson; S. Robert Bradley; Van Cott, Bagley, Cornwall & McCarthy, P.C.; Durham Jones & Pinegar, P.C.; J. William Bennett d/b/a J. William Bennett, P.C.; AAA Engineering & Drafting, Inc.; Azimuth, Inc.; American Adventures Association; Capitol Industries, Inc.; H B Associates; Capitol American Corporation; Capital Properties One, L.L.C.; Capital Properties Two, L.L.C.; Capital Properties Three, L.L.C.; and Capital Properties Five, L.L.C.; are Defendants in a civil action brought against them in the District Court of Oklahoma County, State of Oklahoma, and titled *Debra A. Shaw v. Charles Ross Anderson, A/k/a C. Ross Anderson; Susan Breinholt Anderson, a/k/a Susan B. Anderson; Harden W. Breinholt; Thomas P. Anderson; Brian D. Anderson; Craig Ross Anderson; Lorelee Anderson, a/k/a Lorelee*

¹All Defendants named in ¶ 1 of this Notice of Removal are Defendants who have been served. All Defendants specially appear preserving all claims related to personal jurisdiction.

Kirton, a/k/a Lorelee Hansen; David M. Anderson; Michael C. Reece, a/k/a/ Michael C. Reese; Elayne Reece, Individually, and as Personal Representative of the Estate of Michael C. Reece a/k/a Michael C. Reese; S. Robert Bradley; Van Cott, Bagley, Cornwall & McCarthy, P.C.; Durham Jones & Pinegar, P.C.; J. William Bennett d/b/a J. William Bennett, P.C.; AAA Engineering & Drafting, Inc.; Azimuth, Inc.; American Adventures Association; Capitol Industries, Inc.; H B Associates; Capitol American Corporation; Capital Properties One, L.L.C.; Capital Properties Two, L.L.C.; Capital Properties Three, L.L.C.; Capital Properties Four, L.L.C.; Capital Properties Five, L.L.C.; Capital Properties Six, L.L.C.; Capital Properties Seven, L.L.C.; Capital Properties Eight, L.L.C.; Capital Properties Nine, L.L.C., Cause No. CJ-2005-06278; and hereby remove this action to this Court, by the filing of this Notice of Removal.

2. At the time of filing this action and at the present time, Plaintiff was and is a citizen of the State of Oklahoma.

3. At the time of filing this action and at the present time, Petitioner, Charles Ross Anderson a/k/a C. Ross Anderson, was and is a citizen and citizen of the State of Utah, and is not a citizen of Oklahoma.

4. At the time of filing this action and at the present time, Petitioner, Susan Breinholt Anderson, a/k/a Susan B. Anderson, was and is a citizen of the State of Utah, and is not a citizen of Oklahoma.

5. At the time of filing this action and at the present time, Petitioner, Harden W. Breinholt, was and is a citizen of the State of Utah, and is not a citizen of Oklahoma.

6. At the time of filing this action and at the present time, Petitioner, Thomas P. Anderson, was and is a citizen of the State of Utah, and is not a citizen of Oklahoma.

7. At the time of filing this action and at the present time, Petitioner, Brian D. Anderson, was and is a citizen of the State of Utah, and is not a citizen of Oklahoma.

8. At the time of filing this Notice of Removal, Defendant, Craig Ross Anderson, has not been served. He is a citizen of the State of Utah, and not a citizen of Oklahoma.

9. At the time of filing this action and at the present time, Defendant, Lorelee Anderson, a/k/a Lorelee Kirton, a/k/a Lorelee Hansen, was and is a citizen of the State of Utah, and is not a citizen of Oklahoma.

10. At the time of filing this action and at the present time, Petitioner, David M. Anderson, was and is a citizen of the State of Utah, and is not a citizen of Oklahoma.

11. At the time of filing this action and at the present time, Petitioner, Elayne Reece, Individually, and as Personal Representative of the Estate of Michael C. Reece a/k/a Michael C. Reese, have not been served.

12. At the time of filing this action and at the present time, Petitioner, S. Robert Bradley, was and is a citizen of the State of Utah , and is not a citizen of Oklahoma.

13. At the time of filing this action and at the present time, Petitioner, Van Cott, Bagley, Cornwall & McCarthy, P.C., was and is a professional corporation duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

14. At the time of filing this action and at the present time, Petitioner, Durham, Jones & Pinegar, P.C., was and is a professional corporation duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

15. At the time of filing this action and at the present time, Petitioner, J. William Bennett, P.C., was and is a professional corporation duly organized and existing under the laws of the State of Oregon, and no other state, with its principal place of business in Oregon, and is not a citizen of Oklahoma. J. William Bennett is a citizen of the State of Oregon, and is not a citizen of Oklahoma.

16. At the time of filing this action and at the present time, Petitioner, AAA Engineering & Drafting, Inc., was and is a corporation duly organized and existing under the laws of the State of Utah, and no other state², with its principal place of business in Utah; it is not a citizen of Oklahoma.

17. Petitioner, Azimuth, Inc., was a corporation duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma. Azimuth, Inc., has been dissolved and is no longer engaged in business.

18. At the time of filing this action and at the present time, Petitioner, American Adventures Association, was an unincorporated association and a d/b/a for C. Ross Anderson, having a principal place of business in Utah. C. Ross Anderson is a citizen of Utah, and is not a citizen of Oklahoma.

19. At the time of filing this action and at the present time, Petitioner, Capitol Industries, Inc., was and is a corporation duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

20. At the time of filing this action and at the present time, Petitioner, HB Associates was and is a limited partnership duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah, and is not a citizen of Oklahoma. Its general partners are:

²AAA Engineering & Drafting, Inc., has registered as a foreign corporation in Oklahoma.

(1) H.B. Associates Management, L.C., which is a limited company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah, and is not a citizen of Oklahoma. H.B. Associates Management, L.C.'s sole member is Harden W. Breinholt, an individual and citizen of the State of Utah, and is not a citizen of the State of Oklahoma. Robert H. Breinholt is the manager of H.B. Associates Management, L.C., and is a citizen of the State of Utah, and is not a citizen of the State of Oklahoma.

(2) The Lois K. Breinholt Family Trust, duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah, and is not a citizen of Oklahoma. The Lois K. Breinholt Family Trust has as its Settlor/Trustor as Lois K. Breinholt, who is deceased but during her lifetime was a citizen of the State of Utah, and was not a citizen of the State of Oklahoma. The Lois K. Breinholt Family Trust's Trustee is Robert H. Breinholt, who is a citizen of the State of Utah, and is not a citizen of the State of Oklahoma. The Lois K. Breinholt Family Trust's beneficiary is Harden W. Breinholt, a citizen of the State of Utah, and is not a citizen of the State of Oklahoma.

The following are limited partners of H B Associates Management, L.C. Robert H. Breinholt, Jane T. Breinholt, R. Peter Breinholt, C. Ross Anderson, Susan B. Anderson, Lorelee Hansen, Brian D. Anderson, Thomas P. Anderson, David M. Anderson, Sally B. Berger, Elisa A. Evans, Holli L. Atkinson, Heidi B. Lambert, David H. Berger, Keith Romney, Jr., Julie B. Romney, Christopher K. Romney, Amy L. Gardner, Jennifer R. Mathewson, Marc D. Romney, Nathan S. Romney, Rebecca R. Mauss, Kay C. Barton, Rebecca B. Barton, Brendon K. Barton, Steven L. Barton, Hollie J. Barton, Curtis Barton, Kaitlin Barton, who are all citizens of the State of Utah, and not citizens of the State of Oklahoma.

Mary Jane Breinholt, Ann E. LeClaire, and John Breinholt, who are all citizens of the State of California, and not citizens of the State of Oklahoma.

Jeffrey A. Breinholt, who is a citizen of Washington, D.C., and not a citizen of the State of Oklahoma.

21. At the time of filing this action and at the present time, Petitioner, Capitol American Corporation, was no longer engaged in business having ceased operations in 1984, it was a corporation duly organized and existing under the laws of the State of Pennsylvania ,registered as foreign corporation in Utah and no other state, and had a principal place of business in Utah; it is not a citizen of Oklahoma. Its sole shareholder was Robert Brienholt a citizen of the state of Utah and not an Oklahoma citizen.

22. At the time of filing this action and at the present time, Petitioner, Capital Properties One, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

23. At the time of filing this action and at the present time, Petitioner, Capital Properties Two, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

24. At the time of filing this action and at the present time, Petitioner, Capital Properties Three, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

25. At the time of filing this Notice of Removal, Petitioner, Capitol Properties Four, L.L.C., had not been served. Petitioner, Capitol Properties Four, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

26. At the time of filing this action and at the present time, Petitioner, Capitol Properties Five, L.L.C., was and is a limited partnership duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma. Capitol Properties Five, L.C.'s general partners are as follows:

Capitol Industries, Inc., a Utah corporation, duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah, and is not a citizen of Oklahoma.

Its limited partners are Jack Eichers, Rocky Fellows and Kevin Bradshaw, who are citizens of the State of Utah, and not citizens of the State of Oklahoma.

27. At the time of filing this Notice of Removal, Petitioner, Capitol Properties Six, L.L.C., had not been served. Petitioner, Capitol Properties Six, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

28. At the time of filing this Notice of Removal, Petitioner, Capitol Properties Seven, L.L.C., had not been served. Petitioner, Capitol Properties Seven, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

29. At the time of filing this Notice of Removal, Petitioner, Capitol Properties Eight,

L.L.C., had not been served. Petitioner, Capitol Properties Eight, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

30. At the time of filing this Notice of Removal, Petitioner, Capitol Properties Nine, L.L.C., had not been served. Petitioner, Capitol Properties Nine, L.L.C., was and is a limited liability company duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah; it is not a citizen of Oklahoma.

31. The following are members of Capitol Properties, One, L.C.; Capitol Properties Two, L.C.; Capitol Properties Three, L.C.; Capitol Properties Four, L.C.; Capitol Properties Six, L.C.; Capitol Properties Seven, L.C.; Capitol Properties Eight, L.C.; and Capitol Properties, L.C.:

Robert H. Breinholt, C. Samuel Gustafson; Rebecca B. Barton; and Susan B. Anderson, who are citizens of the State of Utah, and not citizens of the State of Oklahoma.

The Sally B. Berger Trust, duly organized and existing under the laws of the State of Utah, and no other state, with its principal place of business in Utah, and is not a citizen of Oklahoma. The Settlor/Trustor is Harden W. Breinholt, who is a citizen of the State of Utah, and not a citizen of the State of Oklahoma.

The Sally B. Berger Trust's sole beneficiary is Sally B. Berger, a citizen of the State of Utah, and not a citizen of the State of Oklahoma.

The Sally B. Berger Trust's co-Trustees are Robert H. Breinholt and Susan B. Anderson, who are citizens of the State of Utah, and not citizens of the State of Oklahoma.

32. Plaintiff claims to be entitled to recover a sum in excess of \$500,000.00, and, therefore, the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

33. This is the kind of action of which the United States District Courts have original jurisdiction because of diversity of citizenship and sufficiency of amount in controversy.

34. The aforementioned action was commenced by service of summons and Petition upon Van Cott, Bagley, Cornwall & McCarthy, P.C., on August 23, 2005, and this Notice of Removal is, therefore, timely filed under the provisions of 28 U.S.C. § 1446. All other Defendants who join in removal, were served after August 23, 2005.

35. Copies of all process, pleadings and orders served upon Defendants in the aforementioned state action are attached hereto, marked Exhibit Nos. 1 through 24, and made part hereof.

WHEREFORE, Defendants served herein, hereby remove this action from the District Court of Oklahoma County, to this Court.

Respectfully submitted,

s/Michael D. Gray

Michael D. Gray, OBA No. 11326

Britton, Ramsey and Gray, P.C.

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SUSAN BREINHOLT ANDERSON, a/k/a
SUSAN B. ANDERSON; HARDEN W.
BREINHOLT; THOMAS P. ANDERSON;
BRIAN D. ANDERSON; LORALEE
ANDERSON, a/k/a LORALEE KIRTON,
a/k/a LORALEE HANSEN; DAVID M.
ANDERSON; AAA ENGINEERING &

DRAFTING, INC.; AZIMUTH, INC.;
AMERICAN ADVENTURES
ASSOCIATION; CAPITOL INDUSTRIES,
INC.; H B ASSOCIATES; CAPITOL
AMERICAN CORPORATION; CAPITAL
PROPERTIES ONE, L.L.C.; CAPITAL
PROPERTIES TWO, L.L.C.; CAPITAL
PROPERTIES THREE, L.L.C.; CAPITAL
PROPERTIES FIVE, L.L.C.

s/Donald K. Funnell

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ATTORNEYS FOR J. WILLIAM BENNETT

d/b/a J. WILLIAM BENNETT, P.C.

CERTIFICATE OF SERVICE

I certify that on the 12th day of September, 2005, this Notice of Removal was electronically transmitted to the Clerk of the Court using ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Marilyn Barringer-Thomson, Esq.
PO Box 54444
Oklahoma City, Oklahoma 73154
Telephone: (405) 840-3101
Facsimile: (405) 842-3843
ATTORNEY FOR DEBRA A. SHAW

and, further that a copy of said Notice of Removal was delivered to the Court Clerk of Oklahoma County, Oklahoma, County Courthouse, Oklahoma City, Oklahoma, for filing that same date.

s/Michael D. Gray